

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0207P

Use Tax

Calendar Years 1994, 1995, 1996

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on March 16, 1998.

Taxpayer failed to self-assess and remit use tax on clearly taxable items, primarily general supplies. Taxpayer is a Virginia corporation and one of the largest distributors in the United States of medical/surgical and health care products. It operates fifty-four (54) full service distribution centers throughout the United States. In Indiana, the taxpayer currently has a distribution center in Indiana after it closed one during the audit period.

ISSUE

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DISCUSSION

Taxpayer requests a waiver of penalty and states they make every effort to uphold the tax laws and the audit resulted in a very small assessment. Taxpayer further states they have an excellent

filing record and any errors in the audit were the result of clerical errors and not an intentional disregard for the law.

Taxpayer's audit revealed that approximately fifty percent (50%) of the use tax was self assessed in 1994 and 1995 and no self-assessment was made in 1996.

Although the assessment was small, in comparison to the sales tax remitted, the Indiana Use tax laws are clear in the Indiana Code and Regulations. The taxpayer was negligent in failing to remit approximately fifty percent (50%) of the use tax due in 1994 and 1995 and one hundred percent (100%) in 1996.

FINDING

Taxpayer's protest is denied.